

THE NATIONAL INTELLIGENCE ACT OF 1980

Section-by-Section Description

TITLE I--AUTHORIZATION FOR INTELLIGENCE ACTIVITIES

PART A--FINDINGS; PURPOSES; DEFINITIONS

Sec. 101. Findings. The findings stress the necessity for intelligence activities, the need to avoid waste and unnecessary duplication of effort, and the importance of supervision to ensure support for U.S. foreign relations and to protect constitutional and legal rights.

Sec. 102. Purposes. The principal purposes are to authorize necessary intelligence activities and replace the intelligence provisions of the National Security Act of 1947. The purposes also stress consistency with U.S. defense and foreign policy interests, proper and effective management, the need for high quality intelligence, accountability and conformity with the Constitution and laws of the United States.

Sec. 103. Definitions. The definitions fall into three categories: first, terms describing the intelligence community's authority; second, terms used for national intelligence coordination purposes; and third, terms that clarify particular provisions of the Act.

The terms describing the intelligence community's authority include foreign intelligence, foreign intelligence activity, counterintelligence, counterintelligence activity, counterterrorism intelligence, counterterrorism intelligence activity, international terrorist activity, special activity, intelligence, intelligence activity, and intelligence community. These definitions substantially parallel current definitions in Executive Order 12036. The "special activity" definition clarifies legal ambiguities created by the Hughes-Rayn Amendment of 1974, which treated as covert action CIA operations to counter the clandestine intelligence activity of foreign governments or to counter international terrorist activity. "Special activity" in this Act excludes counterintelligence or counterterrorism intelligence operations.

The terms used for national intelligence coordination purposes include national intelligence, national intelligence activity, national intelligence budget, and tactical intelligence. "National intelligence" means foreign intelligence which is collected, retained, processed, or disseminated by intelligence entities for use in the formulation and direction of national policy. "National intelligence activity" means any foreign intelligence activity the primary purpose of which is to collect or produce national intelligence, any other foreign intelligence activity designated by the President, and any special activity. The "national intelligence budget" means funds for the CIA and the Office of the DNI; for the Consolidated Cryptologic Program, the programs of the offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs, and the General Defense Intelligence Program (except such elements of these programs as the DNI and the Secretary of Defense agree should be excluded); and any other program or programs of any department or agency designated by the President or jointly by the DNI and the head of such department or agency. The

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definition of "tactical intelligence" serves to exclude from national intelligence the collection of information required by the armed forces of the United States to maintain their readiness for combat operations and to support the planning and conduct of combat operations by the United States. However, tactical intelligence programs may be included in the national intelligence budget.

The terms used to clarify particular provisions of the Act include communications security, cover, departments and agencies, proprietary, United States, and United States person. "Communications security" is defined for National Security Council policymaking and National Security Agency charter purposes. "Cover" and "proprietary" are defined to clarify particular CIA, FBI, and NSA authorities. "Departments and agencies" and "United States" are defined for jurisdictional purposes generally. The definition of "United States person" differs in three respects from the definition adopted in Executive Order 12036 and the Foreign Intelligence Surveillance Act of 1978. First, an alien lawfully admitted for permanent residence may be presumed to have lost United States person status under this Act after one year of continuous residence abroad until information is obtained which indicates intent to return to the United States as a permanent resident alien. Second, an unincorporated association abroad may be presumed not to be a United States person unless information is obtained which indicates that a substantial number of its members are United States citizens or permanent resident aliens. Third, a corporation which is incorporated in the United States is not a United States person if it is a corporation or corporate subsidiary incorporated abroad or controlled by a foreign power abroad.

#### PART B-- GENERAL INTELLIGENCE AUTHORITIES

Sec. 111. Authorization for Intelligence Activities. The entities of the intelligence community are authorized to conduct intelligence activities, under the direction and review of the National Security Council, but only in accordance with the provisions of this Act. Title I does not prohibit any department or agency from collecting, retaining, processing, or disseminating information if such department or agency is otherwise authorized to do so. Nor does Title I prohibit or affect any activities of any department or agency that are not intelligence activities. Except as expressly provided, nothing in this Act affects or alters existing responsibilities under law, including responsibilities to the Ambassador in a particular country under 22 U.S.C. 2680a. Nothing in this Act authorizes any entity of the intelligence community to conduct any activity for the purpose of depriving any person of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

Sec. 112. National Security Council. The NSC is to provide the highest level review of, guidance for, and direction to the conduct of intelligence activities. The responsibilities of the NSC (or such committees of the NSC as may be established by the President) are to establish national intelligence requirements and priorities, to review the responsiveness of program and budget proposals to intelligence requirements and priorities, and to review the quality of national intelligence products and develop appropriate policy guidance. The NSC or its committees is also to develop policy, standards, and doctrine for the conduct of counterintelligence and counterterrorism intelligence

activities; and to formulate policy for communications security. Additional NSC responsibilities are assigned under Part C of Title I and sec. 213 of Title II.

The President is authorized to establish such NSC committees as may be needed to discharge these responsibilities; and the President may determine the membership of such committees, designate a chairman, set requirements for attendance of members, and prescribe other standards, procedures, and specific duties for the NSC and its committees to discharge their duties under this Act.

(NSC membership and attendance requirements are prescribed by Part C of Title I and sec. 213 of Title II for specific purposes. This Act does not repeal existing law on basic NSC membership and other NSC responsibilities, under sec. 101 of the National Security Act of 1947.)

#### PART C--AUTHORIZATION AND PROCEDURES FOR SPECIAL ACTIVITIES AND OTHER SENSITIVE INTELLIGENCE ACTIVITIES

Sec. 121. Purpose. The purpose of this Part is to ensure that special activities are undertaken only in support of important national security interests when overt or less sensitive alternatives would not be likely to achieve the intended objective; when such activities are consistent with the aims, values, and policies of the United States; and when the anticipated benefits of such activities justify the foreseeable risks and likely consequences.

Sec. 122. Conduct of Special Activities. Special activities may be conducted only by the CIA, by the Defense Department in a period of war or to the extent necessary for hostilities under the War Power Resolution, or by any agency when the President determines that the intended objective is more likely to be achieved. Any agency may provide support for special activities involving substantial resources, risks, or consequences if the President determines that such support is necessary. Any agency may provide support for other special activities if the NSC or a committee thereof determines that such support is necessary.

Sec. 123. Authorization for Special Activities. Special activities shall be authorized by the President. Authorization for any special activity that involves substantial resources, risks, or consequences shall require a Presidential finding that each such activity is important to the national security and consistent with the purposes of this Part. Authorization for any other special activities may be by category and shall require a Presidential finding that such category of activities is important to the national security and consistent with this Part. The NSC or a committee thereof shall be responsible for the supervision of each activity in the category and shall ensure that it is consistent with the Presidential finding.

Presidential authorization shall be preceded by a review by the NSC or a committee thereof, including an assessment and recommendation as to whether the activity or category of activities is consistent with the purposes of this Part. Such recommendation shall include any dissenting views. No decision or recommendation to the President may be made unless the following officers, or if unavailable their representatives, were present: the Secretaries of State and Defense, the Attorney General, and the DNI. Any special activity which lasts more than a year or substantially changes in form or purpose must be reauthorized by the President and reviewed by the NSC or a committee thereof.

The President may delegate presidential responsibilities under this section to the Secretary of Defense with respect to special activities conducted by the military in time of war or to the extent necessary for hostilities under the War Powers Resolution.

Sec. 124. Other Sensitive Intelligence Activities. The President shall establish procedures for the approval of sensitive foreign intelligence, counterintelligence, or counterterrorism intelligence activities which may require review or findings by the President, the NSC, a committee thereof, the DNI, the head of an intelligence entity, or any other designated official.

Sec. 125. Congressional Notification. Each special activity involving substantial resources, risks, or consequences, and each category of other special activities, such be considered "significant anticipated activities" for the purpose of fully and currently informing the House and Senate Intelligence Committees under sec. 152. When essential to meet extraordinary circumstances affecting vital United States interests, the President may limit prior notice for forty eight hours to the chairman and ranking minority members of the intelligence committees, the Speaker and minority leaders of the House, and the majority and minority leaders of the Senate.

#### PART D--LIMITATIONS ON INTELLIGENCE AUTHORITIES

Sec. 131. Assassination. No person employed by or acting on behalf of the United States Government shall engage or conspire to engage in assassination.

Sec. 132. Integrity of Private Institutions of the U.S. The President is to establish public guidelines for intelligence activities designed to protect the integrity and independence of U.S. private institutions. Intelligence entities may not use the following for cover to engage in foreign intelligence activities or special activities: U.S. religious organizations; U.S. media organizations; U.S. educational institutions; the Peace Corps; or U.S. Government cultural exchange programs.

These restrictions do not bar voluntary contacts or voluntary exchange of information between these persons and intelligence entities. The President may waive these restrictions in wartime or to the extent necessary for hostilities under the War Powers Resolution, if the House and Senate Intelligence Committees are notified.

Sec. 133. Covert Domestic Publication. Intelligence entities may not pay for or otherwise knowingly cause or support distribution of any book, magazine, article, periodical, film, or video or audio tape, for the purpose of influencing public opinion within the United States, unless the involvement of the U.S. Government is acknowledged.

Sec. 134. Contracting. Intelligence entity sponsorship of contracts or arrangements for goods or services with U.S. organizations may be concealed for routine service contracts, procurement contracts, or transactions under the Economy Act. Unless the organization is an educational institution, entity sponsorship may also be concealed pursuant to procedures approved by the Attorney General, if concealment is necessary for authorized intelligence activities.

Sec. 135. Indirect Activities. Intelligence entities and their employees may not request or encourage anyone, directly or indirectly, to engage in any activity on behalf of the U.S. Government in which that entity is prohibited by this Act from engaging. This restriction does not bar an intelligence entity from requesting another U.S. Government agency to engage in an activity that is within the authorized functions of that agency.

#### PART E--OVERSIGHT AND ACCOUNTABILITY

Sec. 141. IOB, Reports on Violations, Disciplinary Procedures. An Intelligence Oversight Board is to be appointed by the President. As prescribed by the President, the IOB is to report to the President on questions of legality and propriety, have access to information in the custody of any intelligence entity, and conduct inquiries into the activities of intelligence entities. Each entity is to have a general counsel to review the legality of its activities, rules and regulations; and an inspector general to investigate its activities to determine whether they may be performed more effectively and to determine the facts and circumstances of any alleged wrongdoing. The general counsel and inspector general are to report to the IOB any intelligence matters as specified by the President.

The Attorney General is to report to the IOB any intelligence activity that involves a question as to whether there has been a significant law violation, and report to the President any intelligence activities that involve serious questions of law. The President, the IOB, and the appropriate entity head are to be informed by the Attorney General of decisions or actions taken in response to reports on intelligence activities. The Attorney General is also to keep the IOB and the entity general counsels informed of Justice Department legal opinions affecting intelligence community operations.

Entity heads must ensure that the general counsel and inspector general have access to necessary information; provide information required to fulfill the Attorney General's duties under this Act; report to the Attorney General evidence of possible federal criminal violations by entity employees of agents; and report to the Attorney General evidence of possible violations by other persons of federal criminal laws specified in guidelines adopted by the Attorney General. All entity employees are to cooperate fully with the IOB, the general counsel and inspector general, and the Attorney General; and are to report possible law violations to the entity head and inspector general or general counsel or to the IOB. Entity heads are to ensure such full cooperation. No employee who so reports in good faith or so cooperates may be subject to adverse personnel action solely on that account.

Entity heads are empowered to take disciplinary action against employees who violate this Act or the procedures or regulations established under this Act, including any regulation, procedure, or obligation to provide for personnel, document, communications, or physical security to protect intelligence sources and methods from unauthorized disclosure. Sanctions include suspension without pay for up to 180 days, reduction in salary or grade, and dismissal. Employees have a right to present evidence on their behalf. Existing legal authority of entity heads to terminate employment or take other disciplinary action is not affected.

Sec. 142. Congressional Oversight. Consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches, the head of each intelligence entity shall keep the House and Senate Intelligence Committees fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of, that entity, including any significant anticipated intelligence activity; but Committee approval is not a condition precedent to the initiation of any such anticipated activity. Similarly, each entity head shall furnish any information or material concerning intelligence activities in the possession, custody, or control of the entity or its employees whenever requested by the House or Senate Intelligence Committee, and report in a timely fashion to the Intelligence Committees information relating to intelligence activities that are illegal or improper and corrective actions that are taken or planned.

Entity heads shall maintain a complete record of all legal authorities, published regulations, and published instructions pertaining to the intelligence activities of that entity, and shall establish procedures to ensure that a record is maintained of each authorization or approval required by

law, regulation or procedures approved by the Attorney General under sec. 204 with respect to any intelligence activity. The Intelligence Committees shall be furnished all record schedules which intelligence entities are required by law to furnish to the Archivist of the United States, including any modifications.

The President may establish such procedures as the President determines may be necessary to carry out the provisions of this section.

Sec. 143. Disclosure Provisions. The House and Senate Intelligence Committees are to report annually to their respective Houses on U.S. intelligence activities and call to the attention of each House, or the appropriate committee, any intelligence matter which should have its attention. Such reports are to be made in a manner consistent with national security interests and are to be made public to the extent possible under H.Res. 658 or S.Res. 400 disclosure provisions. No information provided to the Intelligence Committees that has been classified or that the Executive Branch has requested be kept confidential may be made public, except under H.Res. 658 or S.Res. 400 disclosure provisions. These provisions may be changed by each House in the same manner as any other rule of such House. Intelligence Committee employees must agree in writing and under oath to be bound by H.Res. 658 or S.Res. 400 disclosure restrictions and must receive security clearances as determined by each committee in consultation with the DNI.

Sec. 144. Appropriations Requirements. No funds may be appropriated for national intelligence, counterintelligence, or counterterrorism intelligence activities of intelligence entities unless authorized by prior legislation, except for appropriations by continuing resolution or required for pay raises.

Sec. 145. Comptroller General Audits. The Comptroller General may audit and review intelligence activities upon the request of the House Permanent Select Committee on Intelligence or the Senate Select Committee on Intelligence. Each intelligence Committee must approve requests for such audits by other committees of each House; and the results may be made available to the requesting committee only in accordance with the H.Res. 658 of the 95th Congress or S.Res. 400 of the 94th Congress. Audits are to be conducted under security standards prescribed by the DNI, and the DNI may exempt particular activities from audits if the DNI finds such exemption is essential for the nation's security and notifies the Intelligence Committees.

## TITLE II--STANDARDS FOR INTELLIGENCE ACTIVITIES

## PART A--PURPOSES AND DEFINITIONS

Sec. 201. Purposes. This title provides statutory authorization for activities of intelligence entities that concern United States persons, establishes standards for such activities and means to ensure that they conform to those standards, and delineates responsibilities of government officials to ensure that such activities are conducted in accordance with the Constitution and laws of the United States. (The Foreign Intelligence Surveillance Act of 1978 already authorizes and regulates electronic surveillance in the United States for intelligence purposes. Title VIII extends that Act to physical searches in the United States.)

Sec. 202. Definitions. The most intrusive techniques are defined by the terms foreign electronic surveillance, foreign physical search, extraordinary technique, and covert technique. "Foreign electronic surveillance" is defined to mean targeting U.S. persons abroad by wiretaps, microphones, and other techniques and monitoring devices that would require a court order in the United States under the Foreign Intelligence Surveillance Act. "Foreign physical search" means searches abroad of U.S. persons and their property, and opening mail abroad of U.S. persons. "Extraordinary technique" includes foreign electronic surveillance, foreign physical search, and any other technique directed against a U.S. person abroad that would require a warrant for law enforcement in the United States. "Covert technique" means any extraordinary technique and any other category or type of collection activity designated by the President for the purpose of protecting privacy and constitutional rights from significant intrusion.

Additional intrusive techniques defined for this title are directed collection, mail cover, and physical surveillance. "Directed collection" means obtaining information concerning a U.S. person by requesting or directing any person to acquire the information by exploiting or developing a relationship with a U.S. person without disclosing that the information will go to an intelligence entity. (Placing employees in domestic groups is excluded to permit separate procedures in sec. 214(b) for that technique.) "Mail cover" means systematic and deliberate inspection and recording of information from the exterior of envelopes in the mails. "Physical surveillance" means unconsented systematic and deliberate observation of a person on a continuing basis, or unconsented acquisition of nonpublic communications by means other than electronic surveillance.

Other defined terms are collecting agency, employee, foreign power, and minimization procedures. "Collecting agency" and "employee" are defined to clarify the application of procedural requirements. "Foreign power" is defined substantially as in the Foreign Intelligence Surveillance Act to include foreign governments, foreign factions not substantially composed of U.S. persons, entities known to be directed and controlled by foreign governments, international terrorist groups, and foreign-based political groups not substantially composed of U.S. persons. "Minimization procedures" for extraordinary techniques abroad is also defined as in the Foreign Intelligence Surveillance Act. The procedures must minimize acquisition and retention and prohibit dissemination



of nonpublicly available information about unconsenting U.S. persons, consistent with the need for intelligence. Foreign intelligence identifying a U.S. person may be disseminated only if such identity is necessary to understand that intelligence or assess its importance. Evidence of a crime may be disseminated for law enforcement purposes.

## PART B--AUTHORITY FOR ACTIVITIES THAT CONCERN U.S. PERSONS

Sec. 211. General Authorities. Intelligence entities may engage in the following activities only in accordance with this Part and only to fulfill their lawful functions: (1) collection, retention, or dissemination of intelligence concerning U.S. persons; (2) any other intelligence activities directed against U.S. persons; (3) collection, retention, or dissemination of information concerning U.S. persons who are targets of clandestine intelligence gathering activity of a foreign government; (4) collection, retention, or dissemination of information concerning U.S. persons to determine the suitability or credibility of potential sources of intelligence or operational assistance; and (5) collection, retention, or dissemination of information concerning U.S. persons to provide personnel, document, communications, or physical security for intelligence activities.

Intelligence entities may conduct activities that affect U.S. persons with their consent, and may collect, retain, and disseminate publicly available information concerning U.S. persons for lawful purposes. Information concerning a U.S. person may be retained and disseminated if the person is not identified. Information concerning U.S. persons collected in violation of this Act must be destroyed, unless the collecting agency head or a designee determines that it (1) should be retained for oversight, accountability, or redress; (2) evidences physical danger to any person and is used only as necessary to protect against that danger with notice to the Attorney General or a designee; or (3) is required by law to be used for legal proceedings of which the agency has prior notice.

This title does not affect the use of security guards, access controls, identification credential requirements, or inspection of materials entering or leaving intelligence entity installations for security purposes. Nor does this title prohibit voluntary provision of information to an intelligence entity by anyone not employed by or assigned to it. Nothing in this Part prohibits, limits, or otherwise affects activities of any agency other than those described in this section.

Sec. 212. Procedures. Procedures established by intelligence entity heads and approved by the Attorney General are required for intelligence activities that concern unconsenting U.S. persons, except where information is publicly available or where a U.S. person's identity is not retained or disseminated. The procedures must protect constitutional rights and privacy. Officials must be designated to initiate or approve particular activities and to review them at timely intervals. Records must be maintained of all approvals. Minimization procedures geared to particular techniques must limit acquisition and retention and prohibit dissemination consistent with the need for informa-

tion to serve lawful governmental purposes. Foreign intelligence may not be disseminated in a manner that identifies a U.S. person unless the identity is necessary to understand that intelligence or assess its importance, or is evidence of a crime disseminated for law enforcement purposes.

The procedures must also prescribe reasonable requirements for the scope, intensity, and duration of particular types of activities taking into account the nature and quality of information on which the activity is based and the importance of the U.S. objective. Collection is to be conducted with minimal intrusion consistent with the need for information of the nature, reliability, and timeliness required. Certain categories or types of collection activity will be designated "covert techniques" by the President, triggering specific restrictions in sections 213 through 217, and the procedures will implement the President's determinations. Procedures are specifically required to govern the conduct of employees under cover engaged in activities within the United States or directed against U.S. persons abroad. The procedures and any changes are to be submitted in advance to the Intelligence Committees, unless the Attorney General determines immediate action is required and notifies the Committees immediately.

Sec. 213. Collection of Foreign Intelligence. A presumption is established against collection of foreign intelligence by targeting U.S. persons with covert techniques (foreign electronic surveillance, foreign physical search, other techniques that require a warrant for law enforcement, and additional categories or types of collection activity designated by the President to protect privacy and constitutional rights from significant intrusion), unless the person's activities meet counterintelligence or counterterrorism intelligence standards under sec. 214. However, exceptions are made for extraordinary cases.

The first exception is where the President finds that extraordinary circumstances require such collection to obtain foreign intelligence that is essential to the national security and that cannot reasonably be acquired by other means. The NSC or a committee thereof must review such collection before it is approved; and recommendations to the President may not be made unless the Secretaries of State and Defense, the Attorney General, and the DNI, or if unavailable their representatives, are present. Any such collection lasting more than a year or substantially changed in purpose must be reaffirmed by the President and reviewed by the NSC or a committee thereof.

The second exception is where a Presidential designee finds that the target is a senior official of a foreign government, a corporation or other commercial entity directed and controlled by a foreign power, or an entity directed and controlled by a foreign government and that unusual circumstances require such collection to obtain foreign intelligence that is important to the national security and cannot reasonably be acquired by other means. The Attorney General must be notified, and the NSC or a committee thereof must review such collection periodically.

This section also regulates the collection of foreign intelligence within the United States by any clandestine means directed against unconsenting U.S. persons who are in the United States. Such collection may be conducted only (1) by the FBI, with notice to the Attorney General or a designee; (2) by the military services when directed against military personnel; (3) by NSA when directed at foreign communications, as defined in Title VI; and (4) with Attorney General approval by CIA through established sources and pretext interviews when the U.S. person is a senior foreign official or an entity directed and controlled by a foreign power or a foreign government under the second exception. All the procedural requirements of sec. 212 apply to such collection.

Sec. 214. Counterintelligence and Counterterrorism Intelligence Activities. These activities may be directed against unconsenting U.S. persons only on the basis of facts and circumstances which reasonably indicate that the person is or may be engaged in clandestine intelligence activities on behalf of a foreign power or international terrorist activity. Placing employees (including informants under the "employee" definition) in domestic organizations requires a finding by a senior official that such participation is necessary to achieve significant intelligence objectives and meets the requirements of the procedures under sec. 212. Those procedures must establish independent means for audit and inspection of such participation. Use against a U.S. person of mail covers, physical surveillance for purposes other than identification, recruitment of persons to engage in directed collection (such as informants and undercover agents), or access to financial records requires a finding that such techniques are necessary to achieve authorized intelligence objectives and meet the procedural requirements. The Attorney General or a designee is to be notified of these findings with respect to activities which the entity, based on guidelines established by the Attorney General, concludes may involve significant collection of information concerning political or religious activity.

Sec. 215. Targets of Clandestine Intelligence Gathering Activity. Information about unconsenting U.S. persons may be collected only if a designated official makes a finding, with notice to the Attorney General or a designee, that the person is the target of clandestine intelligence gathering activity of a foreign government and such collection is necessary for counterintelligence purposes and meets the procedural requirements. Covert techniques and mail covers are prohibited.

Sec. 216. Potential Sources. Information about persons under consideration as potential sources of intelligence or operational assistance may be collected, without the consent of a U.S. person against whom such collection is directed, only in accordance with procedures which limit the scope, intensity, and duration to that necessary to determine in a timely manner the suitability or credibility of the potential source. Such collection is limited to interviews (including pretext interviews), physical surveillance for identification purposes, checks of government records, and other techniques approved by the collecting agency head with notice to the Attorney General or a designee. Covert techniques and mail covers are prohibited.

Sec. 217. Collection for Security Purposes. Information may be collected to provide personnel, document, communications, or physical security for intelligence activities, without the consent of a U.S. person against whom such collection is directed, only in accordance with procedures which govern the categories of persons who may be subjects of collection by particular agencies, and which limit the scope, intensity, and duration to that required (1) to determine the suitability or trustworthiness of employees, contractors or applicants for contractor status, employees of contractors or proprietaries, applicants for employment or for access to information or facilities, consultants, or persons detailed or assigned to an entity, when requesting the person's consent would jeopardize the security of an intelligence activity; (2) to protect against breaches of security regulations or contractual obligations applicable to such persons, except that collection to protect against breaches of contractual obligations is limited to that necessary to refer the matter to the Justice Department; (3) to protect against a direct or imminent threat that may be posed by the person's activities to the physical safety of personnel, installations, property, documents or other materials related to intelligence activity, except that such collection in the United States is limited to that necessary to refer the matter to a law enforcement agency; and (4) to determine whether proposed intelligence activity sites meet appropriate physical security requirements.

Covert techniques and mail covers are prohibited. Collection by clandestine means requires a finding by a designated official that such means are necessary for authorized purposes and meet the procedural requirements.

Sec. 218. Review of Activities. Activities directed against particular U.S. persons that are authorized pursuant to sections 213 through 217 for longer than a year must be reviewed at least annually by the entity head or a designee. Except for collection under sec. 217 concerning entity employees, a report of such review must be submitted to the Attorney General or a designee or, for activities of the military services directed at military personnel, to the Service Secretary or a designee.

## PART C--STANDARDS FOR EXTRAORDINARY TECHNIQUES

Sec. 221. Extraordinary Techniques Outside the United States. Extraordinary techniques (search or surveillance that would require a court order in the United States) may not be directed against a U.S. person abroad to collect intelligence, except pursuant to a court order similar to that required by the Foreign Intelligence Surveillance Act of 1978. Orders are issued by the seven federal district judges designated under that Act. There are four significant differences between the Foreign Intelligence Surveillance Act and the requirements for search or surveillance of U.S. persons abroad. Two are contained in this section, and the others are in sec. 222 on cooperative arrangements and sec. 223 on emergency procedures. (Title VIII deals separately with physical searches within the United States.)

The first difference is that the standards do not require evidence of criminal law violation. In exceptional cases when the use of covert techniques has been approved under sec. 213 to collect foreign intelligence, an order may be issued if the court finds that the information sought is foreign intelli-

gence and there is probable cause to believe that the U.S. person possesses the information sought. A court order may also be issued if the court finds that significant counter-intelligence or counterterrorism intelligence is likely to be obtained and there is probable cause to believe that the U.S. person engages or is about to engage in clandestine intelligence activities on behalf of a foreign power, international terrorist activity, or activities in furtherance thereof. In all cases the court must find that less intrusive means cannot reasonably be expected to acquire intelligence of the nature, reliability, and timeliness that is required, and the court must approve the minimization procedures.

The second difference is that military judges designated by the Secretary of Defense may issue orders under these standards for extraordinary techniques directed against military personnel abroad. The Attorney General must be informed of all such applications and orders.

The requirements to identify the target, to state whether physical entry may be involved, to specify duration (up to 90 days), and to grant extensions are substantially the same as under the Foreign Intelligence Surveillance Act, although the court receives less information about the technique to be used. No order may authorize more than one unconsented entry into real property except for entries to install, repair, or remove surveillance devices. The court is to observe the procedural, administrative, and security provisions established under the Foreign Intelligence Surveillance Act; and that Act's provisions on use of information, wartime authority, and congressional oversight apply to extraordinary techniques under this section. The court of review established by that Act has jurisdiction to hear appeals; and its decisions are subject to review by the Supreme Court.

Sec. 222. Cooperative Arrangements. The third difference from the Foreign Intelligence Surveillance Act is the provision that disclosure to the court of information concerning cooperative or liaison relationships between U.S. Government agencies and foreign governments is not required, if the DNI determines such disclosure would jeopardize that relationship. If a determination of facts relating to a probable cause finding would require disclosure of such information, the Attorney General may substitute a certification of facts based on a determination that such information reliably supports the certification of facts. The court is to base its probable cause finding on the Attorney General's certification and any other available information, and the court may not refuse to make a finding of probable cause solely because protected liaison information is withheld.

Sec. 223. Emergency Procedures. The fourth difference from the Foreign Intelligence Surveillance Act is the three-day emergency provision. Extraordinary techniques that would meet the standard for a court order may be approved in emergency situations by the senior agency official in the country where the technique is to be used. This same procedure applies to the use of other "covert techniques" that would otherwise require Presidential approval under sec. 213. (By contrast, the Foreign Intelligence Surveillance Act limits emergency surveillance in the United States to 24 hours and requires the Attorney General's approval.)

## PART D--REMEDIES AND SANCTIONS; OTHER PROVISIONS

Sec. 231. Criminal Sanctions. The criminal penalties in the Foreign Intelligence Surveillance Act are applied to employees of the United States who intentionally engage in foreign electronic surveillance or foreign physical search directed against U.S. persons, except as authorized by statute. It is a defense that the surveillance or search was authorized by a court order or search warrant. It is also a defense that the defendant was a law enforcement officer engaged in official duties and there was no statute or established judicial procedure concerning authorizations for the type of surveillance or search involved.

Sec. 232. Civil Liability and Jurisdiction. The civil liability provisions of the Foreign Intelligence Surveillance Act are applied when sec. 231 is violated. Except for this provision, nothing in this title or in any guidelines or procedures established pursuant to this title creates a civil cause of action for equitable relief against the United States or a civil cause of action against any officer, agent, or employee or former officer, agent or employee of the U.S. Government, not otherwise available under the Constitution or laws of the United States. Except as provided in this section regarding extraordinary techniques, nothing in this Act or in any guidelines or procedures established pursuant to this Act, creates any substantive or procedural rights and no court has jurisdiction over a claim in any proceeding, including a motion to quash a subpoena, suppress evidence, or dismiss an indictment based solely on an alleged failure to follow a provision of this Act or of guidelines or procedures established pursuant to this Act.

Sec. 233. Privileged Communications. No otherwise privileged communication shall lose its privileged character as a consequence of this Act.

Sec. 234. Administrative Rulemaking. The DNI and the head of each intelligence entity shall, in appropriate consultation with the Attorney General, promulgate regulations necessary to carry out the provisions of this Act. Any promulgation of a standard, rule, regulation, or procedure to implement this title shall be exempt from the provisions of 5 U.S.C. 553, the Administrative Procedures Act.

### TITLE III--THE INTELLIGENCE COMMUNITY

Sec. 301. Purposes. The purposes are to provide for appointment of a Director of National Intelligence (DNI), and to ensure proper direction of the community. In addition, the DNI is held accountable to the President, Congress and the people.

Sec. 302. Presidential Designation of National Intelligence Activities. The President is to determine from time to time which foreign intelligence activities, if any, in addition to those specifically defined as national intelligence activities, shall constitute national intelligence activities.

Sec. 303. Director and Deputy Director of National Intelligence. The Office of the Director of National Intelligence is established, to be headed by a Director and a Deputy Director appointed by the President, by and with the advice and consent of the Senate. The maximum terms for the DNI and Deputy DNI, respectively, are ten years. The provisions for appointment of military officers parallel existing law. Provision is made for an acting Director or Deputy Director during their absence or disability or during any temporary vacancy in their offices.

Sec. 304. Duties and Authorities of the DNI. The duties and authorities of the DNI generally reflect the responsibilities presently assigned to the Director of Central Intelligence under Executive Order 12036, other Presidential directives, and the National Security Act of 1947. The CIA charter (Title IV) allows the President the option either to keep the DNI as CIA Director or to split the "two hats" by appointing the Deputy DNI or an Assistant DNI as CIA Director. The FBI Charter (Title V) gives the FBI Director primary responsibility for counterintelligence and counterterrorism intelligence activities conducted within the United States. The NSA charter (Title VI) assigns the principal responsibility for signals intelligence to the NSA Director.

The DNI is to serve, under NSC direction, as the principal foreign intelligence officer of the United States. The DNI is responsible for coordinating national intelligence activities and counterintelligence and counterterrorism intelligence activities abroad, for evaluating the quality of national intelligence, and for reviewing national intelligence activities to ensure that they are properly and effectively carried out. To coordinate national intelligence collection, the DNI is to develop objectives and targets to meet NSC requirements, establish procedures to increase the national intelligence contributions of agencies outside the intelligence community, and coordinate all clandestine collection abroad.

The DNI is also responsible for the production of national intelligence, including estimates and other community-wide analyses. This duty includes ensuring that any diverse points of view are presented fully, considered carefully, and expressed clearly for policymakers. The DNI may levy analytic tasks on departmental intelligence production organizations (such as the Defense Intelligence Agency or the State Department's Bureau of Intelligence and Research), in consultation with those organizations. The DNI's responsibility for the dissemination, under appropriate security procedures, of national intelligence includes duties to ensure that all agencies and military commanders receive national intelligence relevant to their duties, to establish procedures to increase the usefulness to all agencies of information collected, processed, and analyzed through national intelligence activities, and to ensure access of each intelligence entity to national intelligence relevant to that entity's authorized activities.

Other DNI functions include ensuring appropriate implementation of special activities and other sensitive intelligence activities abroad, coordinating intelligence relationships with foreign governments under policies formulated in consultation with the Secretary of State, and promoting the performance of services of common concern by particular agencies for the intelligence community.

The existing responsibility of the Director of Central Intelligence for the protection of intelligence sources and methods from unauthorized disclosure is transferred to the DNI, with additional authority to establish for all agencies minimum security standards for the management and handling of information and material relating to intelligence sources and methods. Administrative and personnel authorities of the Director of Central Intelligence under current law are carried over, with some technical revisions, to the Office of the DNI.

To carry out the DNI's specific duties, the DNI is authorized to audit the national intelligence activities of intelligence entities, to obtain additional information from any agency in accordance with applicable law, to review all research and development that supports intelligence activities, and to review all intelligence activities.

Sec. 305. Assistant DNIs, General Counsel, Committees and Boards. The President may appoint up to five Assistant DNIs, no more than two of whom may be military officers. The President may also appoint a General Counsel for the Office of the DNI and the CIA, by and with the advice and consent of the Senate. The DNI, the Attorney General, and the heads of intelligence entities may establish committees and boards to assist in carrying out their duties under this Act, any may establish advisory committees and waive the Federal Advisory Committee Act.

Sec. 306. Departmental Responsibilities. All agency heads are responsible for ensuring that national intelligence obtained by their agencies is promptly furnished to the DNI or to an intelligence entity designated by the DNI.

Sec. 307. Annual Report of DNI. The DNI is to make an annual public report on the national intelligence, counter-intelligence, and counterterrorism intelligence activities of the intelligence community. Such report need not disclose classified information or the names of individuals engaged in such activities.



Sec. 308. National Intelligence Budget. The DNI, consistent with applicable law, has full and exclusive authority to approve the national intelligence budget submitted to the President. The DNI provides program and budget guidance to the agencies, and agency heads must ensure timely submission of their budgets and other necessary information to the DNI. With the advice of the agencies concerned, the DNI develops the budget, presents it to the President in consultation with OMB, and justifies it to Congress. The DNI has comparable reprogramming authority. Implementation of overall budgets by departments that include intelligence entities must have no significant predictable adverse effect on implementation of the national intelligence budget.

Sec. 309. Appropriations Requirements. The DNI may account for lawful expenditures of the Office of the DNI by certificate.

## TITLE IV--CENTRAL INTELLIGENCE AGENCY

### PART A--PURPOSES

Sec. 401. Purposes. The purposes are to clarify the statutory authorities, functions, and responsibilities of the CIA; to authorize the CIA to perform necessary intelligence activities; to ensure that those activities are properly and effectively managed; and to ensure that the CIA is accountable and that its activities are consistent with the Constitution and laws of the United States.

### PART B--ESTABLISHMENT OF AGENCY; DIRECTOR; DEPUTY DIRECTOR; GENERAL COUNSEL; INSPECTOR GENERAL; FUNCTIONS

Sec. 411. Establishment of CIA. The CIA is established as an independent establishment in the executive branch, which acts under the direction of the NSC and subject to intelligence plans, objectives, and requirements set by the DNI.

Sec. 412. Director and Deputy Director. The CIA Director is appointed by the President and confirmed by the Senate. The DNI or Deputy DNI is to serve as CIA Director unless a Deputy or Assistant DNI is appointed and confirmed by the Senate. The Deputy CIA Director is also appointed by the President and confirmed by the Senate. The provisions of the National Security Act of 1947 regarding appointment of military officers are retained. Both offices may not be held simultaneously by active or retired military officers. A military officer appointed to these positions is not subject to military control and may not exercise military functions.

The duties of the CIA Director are to ensure that CIA activities are conducted in accordance with this Act and with the Constitution and laws of the U.S.; to ensure that CIA activities are properly and efficiently directed, regulated, coordinated, and administered; to perform duties assigned by this Act to the head of each intelligence agency; to protect intelligence sources and methods from unauthorized disclosure; and to specify which CIA officials may act in the absence of the Deputy Director.

Sec. 413. General Counsel and Inspector General. The CIA General Counsel is appointed by the President, confirmed by the Senate and discharges general counsel responsibilities for the office of the DNI. A Deputy General Counsel may act in the General Counsel's absence. An Inspector General is appointed by the CIA Director.

Sec. 414. Functions. All CIA activities, duties, and responsibilities must be performed in accordance with this Act. The CIA has three basic types of functions.

Its intelligence functions are to: (1) conduct foreign intelligence activities including collection by clandestine means, (2) conduct counterintelligence and counterterrorism intelligence activities including activities by clandestine

means, (3) conduct special activities, (4) process and analyze national intelligence collected by any intelligence agency, (5) produce, publish, and disseminate intelligence to meet the needs of the President, the NSC, the DNI, and other agencies, including national intelligence estimates and similar analyses coordinated with other intelligence agencies, and (6) to develop, conduct, and support technical and other programs, including signals intelligence and reconnaissance, to collect intelligence abroad.

The CIA also performs functions for the intelligence community at large: (1) to act as the DNI's agent in the coordination of counterintelligence, counterterrorism intelligence, and clandestine foreign intelligence activities abroad by other intelligence agencies, (2) under the direction of the DNI to conduct liaison with and provide assistance to foreign governmental agencies and act as the DNI's agent in the coordination of such relationships by other intelligence agencies, and (3) to conduct services of common concern on behalf of the intelligence community as directed by the DNI.

Ancillary CIA functions are: (1) to conduct or contract for research, development, and procurement of systems and devices related to its other functions, (2) to perform inspection, audit, public affairs, legal, legislative, and other administrative functions to support its activities, and provide such support to the DNI's Office as directed by the DNI, and (3) to perform functions otherwise authorized by this Act to be performed by each intelligence agency.

Within the U.S., CIA may collect foreign intelligence by clandestine means only in coordination with the FBI, under standards agreed upon by the Attorney General and the DNI, and may direct such collection against unconsenting U.S. persons only as permitted by sec. 213(d). Within the U.S., CIA may conduct counterintelligence and counterterrorism intelligence activities by clandestine means only with the approval of the FBI Director or a designee, and must keep the FBI fully and currently informed, in accordance with sec. 504(d).

#### PART C: AUTHORITIES OF CIA: AUTHORIZATION FOR APPROPRIATIONS

Sec. 421. General Authorities. To carry out its functions, the CIA has three types of general authorities: security functions, personnel functions and ancillary functions.

Under the heading of security functions, the CIA is authorized to: conduct background investigations; to maintain its own printing plant; to operate secure communications systems; to protect Agency personnel, installations, and equipment; to maintain cover; to conceal and protect the relationship between the Agency and any of its officers, employees, sources, or activities; to hire security officers; to allow employees to carry firearms when necessary to protect information, persons or property of the CIA; provide transportation when normal means of transportation are unsafe; to carry firearms in the discharge of their official duties in limited circumstances. In addition, no provision of law is to require the

Director of the Agency to disclose the name, official title, salary or affiliation of any person employed by or associated with the Agency. The Agency is also largely exempted from any law (e.g., FOIA) which requires disclosure of its operations or technical systems, except insofar as they deal with finished foreign intelligence analysis or with information requested by Americans on themselves.

In dealing with personnel matters, the Agency is authorized to be reimbursed by other agencies in connection with the detailed personnel tour from the Agency; settle pay claims for civilian and military personnel; pay for expenses in connection with membership in national societies; provide or pay expenses of training; have assigned or detailed to the Agency employees of other departments; have a person who has been separated receive a position in Civil Service.

Various housekeeping authorizations are also granted to the CIA including authorization to exchange funds; rent premises; construct buildings; perform inspections, audit, public affairs, legal, legislative, and other administrative functions; receive sums of money, and use a seal. In addition the Agency is permitted to carry out any other duties granted to all entities of the community under title I.

Sec. 423. Proprietaries. The Agency is authorized to establish and operate proprietaries in the furtherance of its responsibilities. Excess profits and funds generated by the liquidation of a proprietary shall be returned to the miscellaneous receipts of the U.S. Treasury. Major transactions involving Agency proprietaries shall be reported to the Intelligence Committees.

Sec. 424. Relationships with Other Government Agencies. The Agency is authorized to receive assistance from state and federal law enforcement agencies in conducting background investigations on prospective employees. It is authorized to cooperate with and receive technical assistance from the State Department Passport Office, the Immigration and Naturalization Service and other federal, state, or local agencies.

Sec. 425. Admission of Essential Aliens. The Agency is authorized to instruct the Immigration and Naturalization Service to grant up to one hundred essential aliens permanent resident alien status in the United States in any one fiscal year. The Agency is to provide necessary processing and relocation assistance to these persons as required.

Sec. 426. Authorizations for Appropriations and Expenditures. In fulfilling its lawful responsibilities, the Agency may expend the funds authorized and appropriated to it. It may only expend such funds as are authorized by legislation enacted in the same or the two preceding fiscal years. A Contingency Fund is established for any lawful intelligence needs not anticipated at the time the Agency's budget was submitted. The withdrawal of funds from the Contingency Fund is to be approved by the Office of Management and Budget and reported to the Congressional Intelligence Committees, either 72 hours before the transaction, or in extraordinary circumstances within 48 hours of the withdrawal.

PART D--TRAVEL AND OTHER ALLOWANCES; RETIREMENT SYSTEM;  
DEATH GRATUITIES

Sec. 431. Travel, Related Expenses and Death Gratuities for Certain Agency Personnel. In accordance with procedures established by the Director of the Agency in cooperation with the Director of National Intelligence, employees of the Agency stationed overseas are to receive the same benefits, travel allowances and death gratuities as Foreign Service officers receive under existing statutes.

Sec. 432. Retirement System. In general, employees of the Agency fall under the Federal civil service retirement system. However, certain employees of the Agency who either have highly specialized skills or hazardous duties in support of Agency activities overseas shall be eligible for special benefits under the provisions of the 1964 Central Intelligence Agency Retirement Act for Certain Employees.

PART E--TRANSFER OF PERSONNEL, PROPERTY AND FUNCTIONS; STATUTES  
REPEALED; EFFECT OF SUBSEQUENT LAW

Sec. 441. Transfer of Personnel, Property and Functions. All personnel, contractual obligations, rules, regulations licenses, pending lawsuits, and functions of the Agency effective the day before enactment of this act shall be transferred to the Agency as described under this legislation.

Sec. 442. Statutes Repealed; Effect of Subsequent Law. Certain sections of this bill are not to be superseded or amended unless specifically mentioned. In addition, superseded sections of the National Security Act of 1947 and the Central Intelligence Agency of 1949 are hereby repealed.

PART F--CRIMINAL PENALTY

Sec. 443. Criminal Penalty. Under Title IV, anyone using the initials CIA, the name Central Intelligence Agency, or the seal of the Agency to convey the false impression that a document or production is endorsed or authorized by the Agency shall be fined not more than \$10,000 or imprisoned not more than one year or both.

# TITLE V--FEDERAL BUREAU OF INVESTIGATION

Sec. 501. Purposes. The purposes are to authorize the FBI, subject to Attorney General supervision and control, to perform certain intelligence activities; to delineate responsibilities and authorities of the FBI Director; and to ensure that FBI intelligence activities are properly and effectively managed, accountable, and consistent with the Constitution and laws of the United States.

Sec. 502. Supervision and Control. All FBI intelligence authorities are to be exercised in accordance with this Act and under the Attorney General's supervision and control. The Attorney General is to be guided by NSC policies and priorities and responsive to foreign intelligence requirements set by the DNI. The Attorney General and the Director are to review FBI intelligence activities annually and publicly designate officials to discharge general counsel and inspector general functions under this Act.

Sec. 503. Duties of the Director. The FBI Director is the principal officer of the Government for the conduct and coordination of counterintelligence and counterterrorism intelligence activities within the United States. He is to ensure conformity with the law and efficient management, to keep the Attorney General informed, and advise the Attorney General and the NSC on counterintelligence and counterterrorism intelligence matters. The Attorney General is to provide by regulation for an Acting Director.

Sec. 504. Counterintelligence and Counterterrorism Intelligence Functions. The FBI is to collect and disseminate counterintelligence and counterterrorism intelligence. Any other counterintelligence or counterterrorism intelligence activities must be necessary for lawful purposes. FBI liaison with foreign governments is to be in coordination with the DNI. FBI activities abroad are to be in coordination with the CIA and, if unrelated to activities within the United States, require Attorney General or a designee's approval.

The FBI coordinates counterintelligence and counterterrorism activities in the United States by other intelligence entities. Except for activities by the military services against military personnel on military installations, another entity may conduct clandestine activities in the United States only with written FBI approval and notice to the Attorney General or a designee.

Sec. 505. Foreign Intelligence Functions. The FBI may collect foreign intelligence within the United States in the course of authorized collection of counterintelligence and counterterrorism intelligence. The FBI may also conduct activities in the United States in support of foreign intelligence collection programs of other intelligence entities, and may produce foreign intelligence in coordination with the DNI.

FBI foreign intelligence activities for other entities must be based on a written request by an official designated by the President, with notice to the Attorney General or a designee. The Director must approve each support activity. Clandestine activities directed against U.S. persons require notice to the Attorney General or a designee, as under section 213(d).

Sec. 506. Cooperation with Foreign Governments.

The FBI may collect counterintelligence or counterterrorism intelligence on the written request of a foreign government, and assist foreign government officials collecting intelligence in the United States, under two conditions. First, if the FBI would be authorized under this Act to do so in the absence of such a request. Second, if the Attorney General or a designee determines that, as a matter of comity, it is in the interests of the United States. Thus authority is subject to all the requirements of Title II. The FBI must keep the Attorney General or a designee informed of all intelligence collection in the United States by foreign government officials that is assisted by the FBI.

Sec. 507. General and Special Authorities.

In general, the bureau may procure necessary property and facilities, establish and maintain necessary cover, establish and operate proprietaries, deposit public moneys in banks; conduct or contract for research and procurement of technical devices; and protect intelligence sources from unauthorized disclosure in accordance with DNI standards.

Proprietary profits are to be deposited in the Treasury, and the disposition of proprietaries valued more than \$150,000 is to be reported to the Attorney General and the Intelligence Committees. FBI procurement of property or services may be conducted in a manner concealed from the public when necessary for security purposes.

## TITLE VI -- NATIONAL SECURITY AGENCY

## PART A--PURPOSES

Sec. 601. Statement of Purposes. Title VI establishes the National Security Agency (the "Agency") and provides authorization for signals intelligence ("SIGINT" -- information gathered through the interception of electro-magnetic signals) and communications security ("COMSEC" -- protective telecommunications measures denying access to national security information to an unauthorized person). The Agency is to be accountable to the President, the Congress and the people of the United States.

Sec. 602. Definitions. This section defines the terms related to NSA's mission including "communications intelligence", "cryptographic system", "cryptology", "electronic intelligence", "foreign communication", "foreign instrumentation signals intelligence", "signals intelligence", "signals intelligence activities", "unauthorized person", and "United States signals intelligence system".

## PART B--ESTABLISHMENT OF AGENCY'S DIRECTOR; DEPUTY DIRECTOR; GENERAL COUNSEL; INSPECTOR GENERAL; DUTIES

Sec. 611. Establishment of NSA; Function. The Agency, an entity within the Department of Defense (DOD), is authorized to conduct SIGINT and COMSEC activities for the U.S. Government and to serve as the principal agency of the U.S. SIGINT system. The Secretary of Defense supervises the functions of the Agency and responds to COMSEC policies and intelligence objectives and requirements established by the Director of National Intelligence (DNI).

Sec. 612. Director and Deputy Director. The Director and Deputy Director of the Agency are appointed by the President with the advice and consent of the Senate. Either the Director or the Deputy Director must have cryptologic (i.e., coding and ciphering) experience, and only one of the two may be a commissioned officer. Such an officer will neither possess DOD authority, nor be under military department supervision; rank and grade held prior to acceptance of appointment will be maintained. Neither the Director nor the Deputy Director may serve for more than six years, unless reappointed by the President with the advice and consent of the Senate. The maximum term for either office is 12 years.

Sec. 613. Duties of the Director. As the principal SIGINT officer of the Government and as the executive head of the Agency, the duties of the Director will include the management, supervision and dissemination of SIGINT requirements and activities. The Director is to prepare the U.S. SIGINT program budget for each fiscal year. To this end, the Director will receive budget guidance from the Secretary of Defense in tactical and departmental intelligence programs, and the DNI will provide budget guidance in the preparation of national intelligence programs.

Sec. 614. General Counsel; Inspector General. The General Counsel, as principal legal advisor to the Director, will review activities, rules and regulations of the Agency; the Inspector General will conduct investigations to promote effectiveness in the legal functions of the Agency.

## PART C--GENERAL AND SPECIAL ACTIVITIES OF THE AGENCY; AUTHORIZATION FOR APPROPRIATIONS

Sec. 621. Authorization and Appropriations. The Agency may rent, lease, and alter buildings with respect to the prescribed



functions of the Act. A waiver of limitations on the Agency's authority regarding the foregoing is to be in writing. The Agency is further authorized to establish cover for Agency employees and direct the transfer of cryptologic equipment among various entities of the intelligence community.

Sec. 622. Procurement Authority. The Agency may procure property, goods and services with wide discretion in the name of the DOD. However, if procurement is not under the auspices of DOD, it must be pursuant to Sec. 134 ("Restrictions on Contracting").

Sec. 623. Printing and Binding. A full-scale printing plant is authorized for the production of cryptologic materials.

Sec. 624. Education and Training. In order to accomplish the cryptologic missions of the Government, the Act provides authorization to arrange for, fund, and provide the necessary training needed to accomplish the various functions of the Agency.

Sec. 625. Authorizations for Appropriations and Expenditures. Funds appropriated for the Agency must be authorized by legislation "during the same or one of the two immediate preceding fiscal years." Funds expended under sections 701-708 of title 31 U.S.C. (consolidation of unexpended appropriated funds into a common fund) are not subject to the above limitation. In addition, funds initially appropriated to the Secretary of Defense may be provided to the Agency by the Secretary for the sole purpose of meeting emergency expenses.

PART D--TRAVEL AND OTHER EXPENSES; SPECIAL FACILITIES; RETIREMENT SYSTEM-RELATED EXPENSES; AND DEATH GRATUITIES FOR CERTAIN AGENCY PERSONNEL

Sec. 631. Travel. In consultation with the DNI, transportation and subsistence expenses may be paid to employees assigned to stations within the United States. Employees assigned to stations in foreign countries will receive the same expenses that are provided to employees of the Foreign Service (per title IX of Foreign Service Act of 1946).

Sec. 632. Commissary and Mess Services and Recreation Facilities. In the absence of commissary and recreation facilities outside the United States, the Director is authorized to establish such services. They will be accessible to employees of government contractors, as well as to employees of other government agencies. However, the Director may not authorize further establishment of facilities where other departments operate such services, unless they are deemed necessary.

Sec. 633. Retirement System. With the exception of Agency employees involved in hazardous duty, Agency employees will participate in the regular Federal civil service retirement system. Those involved in hazardous duty may receive a special annuity.

Sec. 641. Special Delegation Authority. The Director will have operational control over activities required for SIGINT direct support to military commanders. The authorities of other departments and agencies for final evaluation and dissemination of SIGINT is preserved. After review by the Director and with approval of the DNI, the CIA may conduct SIGINT activities in support of clandestine operations; the FBI may conduct such SIGINT activities in the United States. An organization operating outside of the U.S. SIGINT system must receive NSC authorization to engage in such activities.

PART F--TRANSFER OF PERSONNEL, PROPERTY AND FUNCTIONS

Sec. 651. Personnel, obligations, and contracts -- employed or in effect the day before the effective date of this title -- will be transferred to the Director. The foregoing will apply also to rules, regulations, and any action in effect prior to the above date.

TITLE VII--PROTECTION OF IDENTITIES OF CERTAIN UNDERCOVER  
INTELLIGENCE OFFICERS, AGENTS, INFORMANTS, AND  
SOURCES

Sec. 701. Criminal Penalty. Criminal penalties of a \$50,000 fine or not more than ten years imprisonment or both are imposed on persons who have or have had authorized access to classified information that identifies an undercover intelligence agent and violate their obligation to protect its secrecy. This statute goes beyond current law by: (1) punishing disclosure of this category of classified information by present or former government employees to any unauthorized person, not just to foreign agents; (2) eliminating the Espionage Act requirement of proof of an intent by the employee or former employee to harm the national security; and (3) establishing the extraterritorial application of the statute to citizens committing the offense abroad.

It is a defense that the United States has publicly acknowledged or revealed the undercover relationship of the person who is identified. Persons who have not had authorized access to the information cannot be prosecuted as conspirators. It is not an offense to transmit information directly to the Intelligence Committees, and nothing is to be construed as authority to withhold information from the Congress.

Sec. 702. Presidential Responsibility. The President is to ensure that persons having authorized access to such classified information be informed of this criminal penalty.

## TITLE VIII--PHYSICAL SEARCHES WITHIN THE UNITED STATES

Sec. 801. Amendments to the Foreign Intelligence Surveillance Act. The Foreign Intelligence Surveillance Act of 1978 is re-titled the Foreign Intelligence Search and Surveillance Act. The court order procedures of the Act are extended to "physical search," defined as any search of property located in the United States and any opening of mail in the United States or in U.S. postal channels, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes. The procedures of the Act for surveillance without a court order approved by the Attorney General are extended to physical search directed solely at property or premises under the open and exclusive control of an "official" foreign power, but no property or mail of a known U.S. person may be seized and there must be no substantial likelihood that the search will involve the property of mail of a U.S. person.

The Foreign Intelligence Surveillance Act of 1979 is also amended to permit the Attorney General to authorize physical entry of property or premises over the open and exclusive control of an "official" foreign power for electronic surveillance purposes.

The standards for court orders are basically the same as under the Foreign Intelligence Surveillance Act of 1978. There must be probable cause of criminal activity by any U.S. person whose property or mail is to be searched. No order may authorize more than one unconsented physical entry except for entries to install, repair, or remove surveillance devices. Whenever more than one search of property or the opening of more than one item of mail is to be conducted under an order, the court must specify the authorized scope of the searches or opening of mail. All other provisions of the Act concerning electronic surveillance, including criminal penalties and civil liability, are extended to physical search. Numerous technical amendments are necessary for this purpose.

Sec. 802. Amendments to Chapter 119 of Title, 18 United States Code. These are technical conforming amendments to changes made by the Foreign Intelligence Surveillance Act.